
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

R.S.A. No. 3379 of 2006

Date of Decision : 27.8.2007

Data Ram and others

...Appellants

Versus

Balwant and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Sanjay Mittal, Advocate for the appellants.

RAJESH BINDAL, J.

This is plaintiffs' second appeal against the concurrent findings of fact by both the Courts below where suit for declaration filed by them was dismissed.

The claim made in the suit was that plaintiffs-appellants are owner in possession of Killa No.5 of rect. No.20 measuring 8 kanals comprised in Khewat No.28 Khatoni No.71 as per jamabandi for the year 1997-98 situated in village Akbarpur (Nangal Harnath).

The respondents/defendants contested the suit by raising a plea that the land, regarding which declaration was sought by the appellant-plaintiffs, was infact exchanged by them with the respondents against Khasra No.11/19 comprised in Khewat No.27 Khatoni No.69 and the respective possession was also taken by the parties. It is further alleged that appellants-plaintiffs have even cremated their parents in Khasra No.11/19 about 30 years ago and had no connection whatsoever with Khasra No.20/5, which was in possession of the defendants.

During the course of evidence, it was admitted by the appellants that property in question bearing No.20/5 was exchanged by them with respondents against Khasra No.11/19. Once this fact is admitted

by the appellant-plaintiffs themselves in their evidence before the Courts below, nothing lies in their mouth to claim that they deserve to be declared owner in possession of the land in question, which they admittedly themselves exchanged with another land with the respondents and they are in possession of the exchanged land.

With these findings of fact on record, I do not find any merit in the present appeal and the same is, accordingly, dismissed

August 27, 2007
Pka

(Rajesh Bindal)
Judge